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# Public Notice

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**US ARMY CORPS  
OF ENGINEERS  
St. Louis District  
Gateway to Excellence**

**Reply To:  
U.S. Army Corps of Engineers  
Attn: CEMVS-OD-F  
1222 Spruce Street  
St. Louis, Missouri 63103-2833**

Public Notice No.  
**P-2692**  
Public Notice Date  
**December 12, 2008**  
  
Expiration Date  
**January 12, 2009**

**Postmaster Please Post Conspicuously Until:**

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File Number: MVS-2008-574

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached maps.

**COMMENTS AND ADDITIONAL INFORMATION:** Comments on the described work should reference the U.S. Army Corps of Engineers File Number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers  
Regulatory Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833  
ATTN: Kale Horton

**APPLICANT:** Black Beauty Coal Company, LLC, 7100 Eagle Crest Blvd., Suite 100, Evansville, IN 47715

**AGENT:** N/A

**LOCATION:** The mine permit boundary consists of approximately 709 acres located in Sections 13, 14, 23, and 24, Range 05 West, and Township 05 South in Randolph County, Illinois. The site is located approximately 4.0 miles southeast of the town of Eden and south of Illinois State Route 154. Latitude: 38.0880 Longitude: -89.6110 (Attachment 1).

**PROJECT DESCRIPTION:** The proposed project is the Marys River Coal Mine. Surface mining will progress through the permit boundary in a series of long, narrow pits for coal recovery (Attachment 2). Overburden will be removed to reach the coal seam with a maximum recovery depth of 150 feet. Once the coal is removed, overburden will be replaced and the area will be restored to approximate original contour, covered with stockpiled soil material, revegetated, and returned to an approved post-mine land use as required in the SMCRA permit. The Illinois Department of Natural Resources, Office of Mines and Minerals SMCRA Permit for the coal mine is IDNR Permit #379.

Proposed grading and filling associated with the mining operation will directly impact 12,393 linear feet of ephemeral stream and 31,564 linear feet of intermittent stream at the mine site (total 43,957 linear feet). Additionally, 37.89 acres of forested wetland, 0.27 acres of emergent wetland, and 2.41 acres of open water will be filled. As proposed, the mining area identified in Attachment 2 encompasses the mining operation until the year 2015.

Onsite streams and wetlands flow to Lick Branch. The receiving waterway, Lick Branch, flows to Marys River and then to the Mississippi River - a navigable water of the United States. Approximately 27 miles of perennial stream separate waters of the United States at mine site from the Mississippi River.

**Mitigation:** The applicant has proposed a mitigation plan designed to compensate for the anticipated spatial and temporal loss of stream and wetland functions within the 709-acre mine permit boundary (Attachment 3). This plan includes constructing ephemeral and intermittent streams in their approximate original location as a part of the mine reclamation plan. In-stream structures and natural channel design methods will be used for stream mitigation. Riparian restoration will include the establishment of 150 feet of corridor on each side of intermittent channels and 50 feet of corridor on each side of the ephemeral channels. The applicant will construct 114.21 acres of wetland adjacent to the streams. Stream corridors and adjacent wetland will be reforested with a diverse mix bottomland tree species native to the region. Two final cut impoundments, totaling 25 acres of open water, will be created as a part of the mine plan and permanently left on the site. Stream impact analysis and mitigation was developed using an approved stream assessment protocol for projects in the St. Louis District.

A reasonable range of alternatives have been identified and considered for the project. Alternatives include those that are practical or feasible from a technical, environmental, and economic standpoint. Given the purpose and need of the project the proposed impacts were avoided to the maximum extent practicable; minimized, and the unavoidable impacts are proposed to be compensated for in the mitigation plan.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

**LOCATION MAPS AND DRAWINGS:** See Attachments 1 to 3.

**ADDITIONAL INFORMATION:** Additional information may be obtained by contacting Kale Horton, Project Manager, U.S. Army Corps of Engineers, at (314) 331-8185. Your inquiries may also be sent by electronic facsimile to (314) 331-8741 or by e-mail to [kale.e.horton@usace.army.mil](mailto:kale.e.horton@usace.army.mil).

**AUTHORITY:** This permit will be processed under Section 404 of the Clean Water Act (33 U.S.C. 1344).

**WATER QUALITY CERTIFICATION:** This public notice also provides documentation to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the proposed activity in accordance with Section 401 of the Clean Water Act. Certification or waiver indicates that IEPA believes the activity will not violate applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C. The water quality standards provide for the IEPA to review individual projects by providing an antidegradation assessment, which includes an evaluation of alternatives to

any proposed increase in pollutant loading that may result from this activity. The “Fact Sheet” containing the antidegradation assessment for this proposed project may be found on the IEPA’s web site, at [www.epa.state.il.us/public-notices/](http://www.epa.state.il.us/public-notices/). In the event that the IEPA is unable to publish the “Fact Sheet” corresponding to the timeframe of this Joint Public Notice, a separate public notice and “Fact Sheet” will be published by the IEPA at the web site identified above. You may also obtain a copy of the “Fact Sheet” by contacting the IEPA at the address or telephone number shown below.

Written comments specifically concerning possible impacts to water quality should be addressed to:

Illinois Environmental Protection Agency  
Bureau of Water  
Watershed Management Section  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

A copy of all written comments should also be provided to the Corps of Engineers. If you have any questions please contact the IEPA at (217) 782-3362.

**SECTION 404 (b)(1) EVALUATION:** The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404 (b)(1) of the Clean Water Act.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the applicant’s proposal. Any request for a public hearing shall state, with particularity, the reason for the hearing, and must be based on issues that would warrant additional public review.

**ENDANGERED SPECIES:** A preliminary determination, in compliance with the Endangered Species Act, as amended, has been made that the work that is proposed would not affect species designated as threatened or endangered, or adversely affect critical habitat. Therefore, no formal consultation request has been made to the United States Department of Interior, Fish and Wildlife Service. In order to complete our evaluation, comments are solicited from the Fish and Wildlife Service and other interested agencies and individuals through this Public Notice.

**CULTURAL RESOURCES:** The St. Louis District will evaluate information provided by the State Historic Preservation Officer, Tribal Historic Preservation Officers, and the public in response to this public notice. Phase 1 and Phase 2 cultural resource surveys of land parcels associated with project have been completed.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that may reasonably be expected to accrue from the described activity must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the activity described, will be considered including the cumulative effects. Among factors considered are: conservation; economics; aesthetics; general environmental concerns; wetlands; historic properties; fish and wildlife values; flood hazards; flood plain values; land use; navigation; shoreline erosion and accretion; recreation; water supply and conservation; water quality; energy needs; safety; food and fiber production; mineral needs; consideration of property ownership; and in general the needs and welfare

of the people.

**SOLICITATION OF COMMENTS:** The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

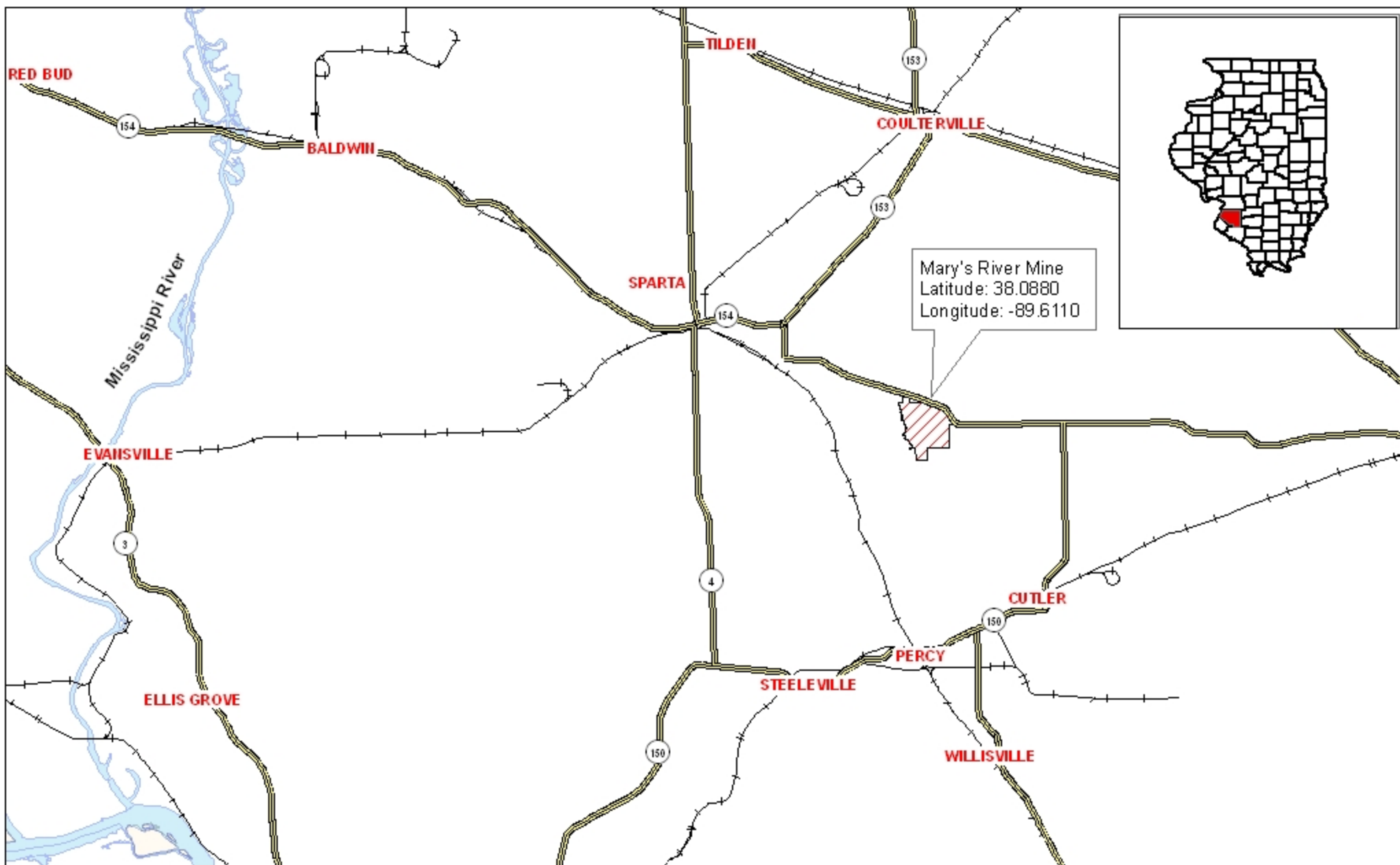
In accordance with 33 CFR 325.3, it is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project.

  
DANNY D. MCCLENDON  
Chief, Regulatory Branch

Attachments

**NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.



#### Legend

- State Hwy
- US Hwy
- Railroad
- Mine Permit
- Major Waters

## Mary's River Mine

### Project Location Map - MVS-2008-574

### Randolph County, IL

Attachment 1 of 3

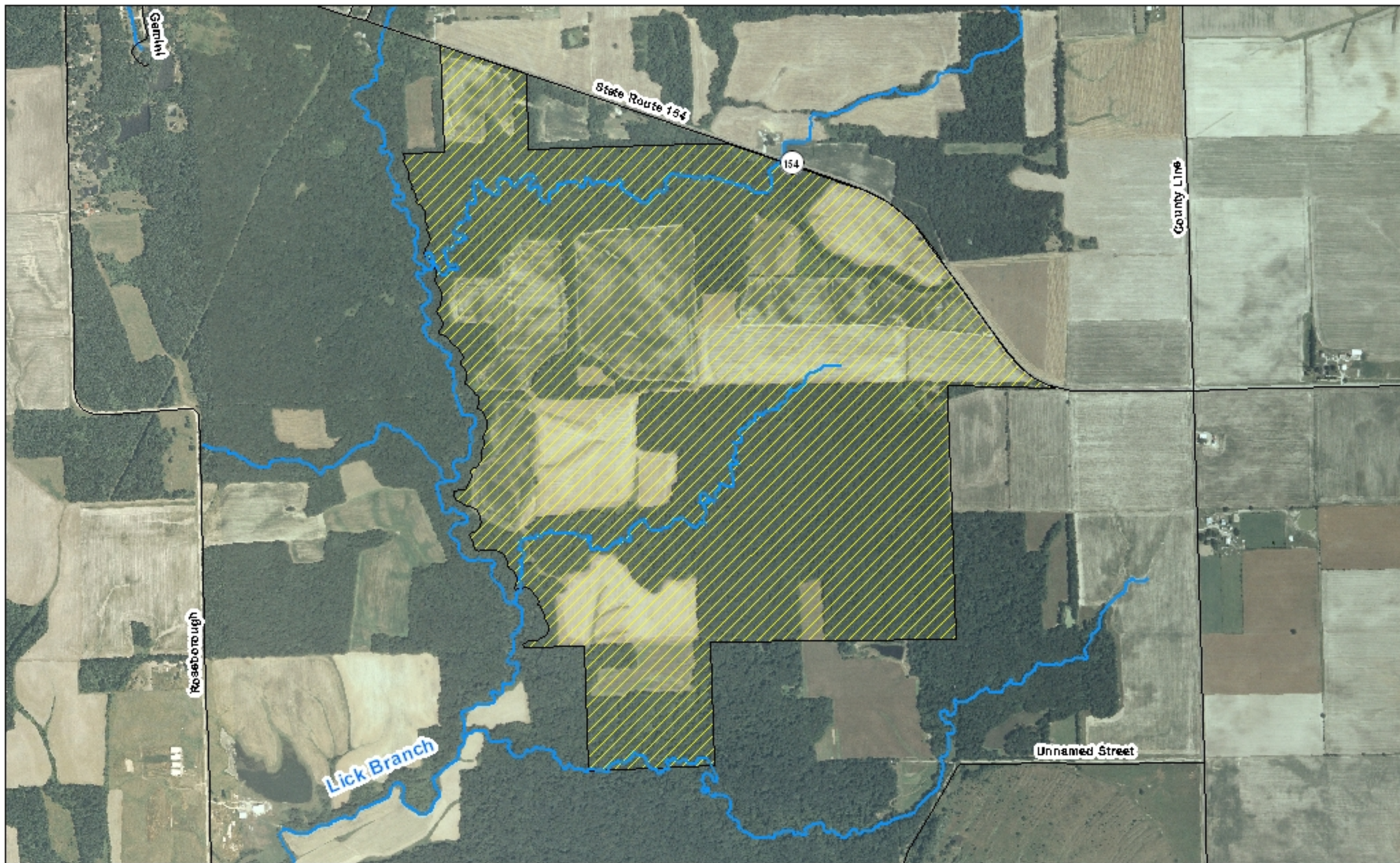


0 2 4 8 Miles



**US Army Corps  
of Engineers**  
St Louis District





#### Legend

- Stream
- Street
- State Hwy
- Mine Permit

## Mary's River Mine

Project Location Map - MVS-2008-574

Randolph County, IL

Attachment 2 of 3



0 950 1,900 3,800 Feet



US Army Corps  
of Engineers  
St Louis District



